

**UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF MASSACHUSETTS**

SAMUEL KATZ and LYNNE RHODES,
individually, and on their own behalf and on
behalf of all others similarly situated,

Plaintiffs,

V.

LIBERTY POWER CORP., LLC, *et al.*,

Defendants.

Case No. 1:18-cv-10506-ADB-DLC

LIBERTY POWER CORP., LLC, and
LIBERTY POWER HOLDINGS, LLC,

Third-Party Plaintiffs,

V.

MEZZI MARKETING, LLC,

Third-Party Defendant.

LIBERTY POWER CORP., LLC,

Counterclaim-Plaintiff,

V.

SAMUEL KATZ,

Counterclaim-Defendant.

**DEFENDANTS' LIBERTY POWER CORP., LLC AND LIBERTY POWER HOLDINGS,
LLC EMERGENCY MOTION TO EXTEND SUMMARY JUDGMENT DEADLINE**

Defendants, Liberty Power Corp., LLC, and Liberty Power Holdings, LLC (collectively, “Defendants”), by counsel, respectfully move the Court to enlarge by two weeks, after the completion of Plaintiffs’ Rule 30(b)(6) deposition of Liberty Power Corp., LLC, the deadline

within which Defendants may file their summary judgment briefing and by four weeks, after the filing of Defendants summary judgment briefing, the deadline within which Plaintiffs' may file their summary judgment briefing. In support thereof, Defendants state as follows:

1. On January 12, 2021, Defendants filed an unopposed Motion for a Sixty-Day Extension of Time to the Deadlines in the Court's October 20, 2020 Scheduling Order (ECF No. 269). The Court entered an order allowing Defendants' Motion for a Sixty-Day Extension of Time on January 15, 2021, which provided Defendants until March 15, 2021 to file a Motion for Summary Judgement (ECF No. 275).

2. Given the representations in Plaintiffs' recent filing (ECF No. 301) and during the Parties' meet-and-confer call on Friday, March 12, 2021, Plaintiffs have indicated that they will be moving for relief under Rule 56(d) seeking deposition testimony if Defendants file their summary judgment briefing prior to taking the Rule 30(b)(6) deposition of Liberty Power Holdings, LLC.¹

3. In addition, Plaintiffs have indicating that they believe the Rule 30(b)(6) deposition of Liberty Power Holdings, LLC will produce evidence relevant to summary judgment briefing. Defendants concur in this assessment. Moreover, depending on the deposition testimony of corporate witnesses, the parties may need to notice additional depositions.

¹ Despite the Defendants moving for a protective order quashing seven of the twenty-two topics in Plaintiffs' Second Amended Rule 30(b)(6) Deposition Notice on February 26, 2021 (ECF Nos. 292 and 293), Defendants were ready and willing to go forward with the Rule 30(b)(6) Deposition of Liberty Power Corp., LLC on the dates noticed by the Plaintiffs, March 4 and 5, 2021. In their Protective Order, Defendants indicated they would not provide deponents on seven of the twenty-two topics, but would still go forward with the deposition. Plaintiffs, however, not satisfied with such outcome decided that this meant Defendants were cancelling the deposition. Plaintiffs continue to suggest a desire to take the Rule 30(b)(6) Deposition of Liberty Power Corp., LLC.

4. Because Plaintiffs have indicated that they will be moving for Rule 56(d) relief seeking further deposition testimony, Defendants seek a two week extension of time, after the completion of Plaintiffs' Rule 30(b)(6) deposition of Liberty Power Corp., LLC, to file their summary judgment briefing. The additional time sought will promote the clear presentation of the relevant issues by Defendants so that the litigation can proceed in an orderly, focused fashion.

5. Defendants' counsel emailed Plaintiffs' counsel at 9:55 a.m. on March 15, 2021, asking Plaintiffs' counsel to inform us of their position on this Motion by 1:00 p.m. today. Plaintiffs have not responded.

6. This request is not intended for the purpose of delay. No party will be prejudiced by the allowance of this motion, as Plaintiffs also indicated, during the Parties' meet-and-confer call on Friday, March 12, 2021, that they will be seeking an extension in the briefing schedule.

WHEREFORE, Defendants respectfully request that the Court: enlarge by two weeks, after the completion of Plaintiffs' Rule 30(b)(6) deposition of Liberty Power Corp., LLC, the deadline within which Defendants may file their summary judgment briefing and by four weeks, after the filing of Defendants summary judgment briefing, the deadline within which Plaintiffs' may file their summary judgment briefing; and enter any and all such other relief for Defendants as the Court may deem just.

Respectfully submitted,

By their attorneys,

/s/ Nicole J. Cocozza

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Dated: March 15, 2021

LOCAL RULE 7.1(a)(2) CERTIFICATE OF COMPLIANCE

I, Charles A. Zdebski, counsel for Defendants, hereby certify that on March 15, 2021, I conferred via email with Plaintiffs in a good faith attempt to resolve or narrow the issues in this Motion, however we did not get a response, so we do not know plaintiffs position on this Motion.

/s/ Charles A. Zdebski
Charles A. Zdebski

CERTIFICATE OF SERVICE

I hereby certify that on March 15, 2021, the foregoing document(s) filed through the ECF system will be sent electronically to the registered participants as identified on the NEF:

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